

Fed. Mine Safety and Health Review Commission

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motion with the Commission or Judge. The motion to withdraw may, in the discretion of the Commission or Judge, be denied where it is necessary to avoid undue delay or prejudice to the rights of a party.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48712, Sept. 8, 1999]

§ 2700.4 Parties, intervenors, and amici curiae.

(a) *Party status.* A person, including the Secretary or an operator, who is named as a party or who is permitted to intervene, is a party. In a proceeding instituted by the Secretary under section 105(c)(2) of the Act, 30 U.S.C. 815(c)(2), the complainant on whose behalf the Secretary has filed the complaint is a party and may present additional evidence on his own behalf. A miner, applicant for employment, or representative of a miner who has filed a complaint with the Commission under section 105(c)(3) or 111 of the Act, 30 U.S.C. 815(c)(3) and 821, and an affected miner or his representative who has become a party in accordance with paragraph (b) of this section, are parties.

(b) *Intervention*—(1) *Intervention by affected miners and their representatives.* Before a case has been assigned to a Judge, affected miners or their representatives shall be permitted to intervene upon filing a written notice of intervention with the Executive Director, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001. If the case has been assigned to a Judge, the notice of intervention shall be filed with the Judge. The Commission or the Judge shall mail forthwith a copy of the notice to all parties. After the start of the hearing, affected miners or their representatives may intervene upon just terms and for good cause shown.

(2) *Intervention by other persons.* (i) Motions by other persons for leave to intervene shall be filed before the start of a hearing on the merits unless the Judge, for good cause shown, allows a later filing. The motion shall set forth:

(A) The interest of the movant relating to the property or events that are the subject of the proceeding;

(B) The reasons why such interest is not otherwise adequately represented by the parties already involved in the proceeding; and

(C) A showing that intervention will not unduly delay or prejudice the adjudication of the issues.

(ii) Such intervention is not a matter of right but of the sound discretion of the Judge. In denying a motion to intervene, the Judge may alternatively permit the movant to participate in the proceeding as *amicus curiae*.

(c) *Procedure for participation as amicus curiae.* Any person may move to participate as *amicus curiae* in a proceeding before a Judge. Such participation as *amicus curiae* shall not be a matter of right but of the sound discretion of the Judge. A motion for participation as *amicus curiae* shall set forth the interest of the movant and show that the granting of the motion will not unduly delay or prejudice the adjudication of the issues. If the Judge permits *amicus curiae* participation, the Judge's order shall specify the time within which such *amicus curiae* memorandum, brief, or other pleading must be filed and the time within which a reply may be made. The movant may conditionally attach its memorandum, brief, or other pleading to its motion for participation as *amicus curiae*.

[58 FR 12164, Mar. 3, 1993, as amended at 67 FR 60862, Sept. 27, 2002]

§ 2700.5 General requirements for pleadings and other documents; status or informational requests.

(a) *Jurisdiction.* A proposal for a penalty under section 110, 30 U.S.C. 820; an answer to a notice of contest of a citation or withdrawal order issued under section 104, 30 U.S.C. 814; an answer to a notice of contest of an order issued under section 107, 30 U.S.C. 817; a complaint issued under section 105(c) or 111, 30 U.S.C. 815(c) and 821; and an application for temporary reinstatement under section 105(c)(2), 30 U.S.C. 815(c)(2), shall allege that the violation or imminent danger took place in or involves a mine that has products

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which enter commerce or has operations or products that affect commerce. Jurisdictional facts that are alleged are deemed admitted unless specifically denied in a responsive pleading.

(b) *Where to file.* Unless otherwise provided for in the Act, these rules, or by order:

(1) Until a Judge has been assigned to a case, all documents shall be filed with the Commission. Documents filed with the Commission shall be addressed to the Executive Director and mailed or delivered to the Docket Office, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; facsimile delivery as allowed by these rules (*see* section 2700.5(e)), shall be transmitted to (202) 434–9954.

(2) After a Judge has been assigned, and before a decision has been issued, documents shall be filed with the Judge at the address set forth on the notice of the assignment.

(3) Documents filed in connection with interlocutory review shall be filed with the Commission in accordance with section 2700.76.

(4) After the Judge has issued a final decision, documents shall be filed with the Commission as described in paragraph (b)(1) of this section.

(c) *Necessary information.* All documents shall be legible and shall clearly identify on the cover page the filing party by name. All documents shall be dated and shall include the assigned docket number, page numbers, and the filing person's address, business telephone number, cell telephone number if available, fax number if available, and e-mail address if available. Written notice of any change in contact information shall be given promptly to the Commission or the Judge and all other parties.

(d) *Privacy considerations.* Persons submitting information to the Commission shall protect information that tends to identify certain individuals or tends to constitute an unwarranted intrusion of personal privacy in the following manner:

(1) All but the last four digits of social security numbers, financial account numbers, driver's license num-

bers, or other personal identifying numbers, shall be redacted or excluded;

(2) Minor children shall be identified only by initials;

(3) If dates of birth must be included, only the year shall be used;

(4) Parties shall exercise caution when filing medical records, medical treatment records, medical diagnosis records, employment history, and individual financial information, and shall redact or exclude certain materials unnecessary to a disposition of the case.

(e) *Manner and effective date of filing.* Unless otherwise provided for in the Act, these rules, or by order:

(1) Documents may be filed with a Judge or the Commission by any means of delivery a party chooses, including facsimile transmission. With the exception of documents filed pursuant to §§ 2700.70 (Petitions for discretionary review), 2700.45 (Temporary reinstatement proceedings), 2700.24 (Emergency response plan dispute proceedings), or Subpart F (Applications for temporary relief), documents filed by facsimile transmission shall not exceed 15 pages, excluding the facsimile cover sheet. Parties filing by facsimile are also required to file the original document with the Judge or Commission within 3 days of the facsimile transmission.

(2) When filing is by personal delivery or facsimile, filing is effective upon successful receipt by the Commission. When filing is by mail, filing is effective upon mailing, except that the filing of a motion for extension of time, any document in an emergency response plan dispute proceeding, a petition for review of a temporary reinstatement order, a motion for summary decision, a petition for discretionary review, a motion to exceed page limit is effective upon receipt. *See* §§ 2700.9(a), 2700.24(d), 2700.45(f), 2700.67(a), 2700.70(a), (f), and 2700.75(f).

(f) *Number of copies.* In cases before a Judge, unless otherwise ordered, the original document, along with one copy for each docket, shall be filed; in cases before the Commission, the original and six copies shall be filed; but if the filing party is not represented by a lawyer, the original shall be sufficient. When filing is by facsimile transmission, the original must be filed with the Judge or Commission within 3 days

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of the facsimile transmission, but no additional copies should be filed.

(g) *Form of pleadings.* All printed material shall appear in at least 12-point type on paper 8½ by 11 inches in size, with margins of at least 1 inch on all four sides. Text and footnotes shall appear in the same size type. Text shall be double spaced. Headings and footnotes may be single spaced. Quotations of 50 words or more may be single spaced and indented left and right. Excessive footnotes are prohibited. The failure to comply with the requirements of this paragraph or the use of compacted or otherwise compressed printing features may be grounds for rejection of a pleading.

(h) *Citation to a decision of a Judge.* Each citation to a decision of a Judge should include “(ALJ)” at the end of the citation.

(i) *Status or informational requests.* Any inquiries concerning filing requirements, the status of cases before the Commission, or docket information shall be directed to the Office of General Counsel or the Docket Office of the Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48712, Sept. 8, 1999; 67 FR 60862, Sept. 27, 2002; 71 FR 44206, Aug. 4, 2006; 71 FR 54905, Sept. 20, 2006; 72 FR 2191, Jan. 18, 2007; 75 FR 21989, Apr. 27, 2010; 75 FR 73957, Nov. 30, 2010; 75 FR 81462, Dec. 28, 2010]

§ 2700.6 Signing of documents.

When a person who appears in a representative capacity signs a document, that person's signature shall constitute his certificate:

(a) That under the provisions of the law, including these rules and all federal conflict of interest statutes, he is authorized and qualified to represent the particular party in the matter; and

(b) That he has read the document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or

needless increase in the cost of litigation.

§ 2700.7 Service.

(a) *Generally.* A copy of each document filed with the Commission shall be served on all parties. In addition, a copy of a notice of contest of a citation or order, a petition for assessment of penalty, a discrimination complaint, a complaint for compensation, and an application for temporary relief shall be served upon the representative of miners, if known.

(b) *Posting.* A copy of an order, citation, notice, or decision required under section 109 of the Act, 30 U.S.C. 819, to be posted on a mine bulletin board shall, upon receipt, be immediately posted on such bulletin board by the operator.

(c) *Methods of service.* Unless otherwise provided for in the Act, these rules, or by order:

(1) Documents may be served by any means of delivery a party chooses, including facsimile transmission. With the exception of documents served pursuant to §§ 2700.70 (Petitions for discretionary review), 2700.45 (Temporary reinstatement proceedings), 2700.24 (Emergency response plan dispute proceedings), or subpart F (Applications for temporary relief), documents served by facsimile transmission shall not exceed 15 pages, excluding the facsimile cover sheet. When filing by facsimile transmission (*see* § 2700.5(e)), the filing party must also serve by facsimile transmission or, if service by facsimile transmission is impossible, the filing party must serve by a third-party commercial overnight delivery service or by personal delivery.

(2) When service is by personal delivery or facsimile, service is effective upon successful receipt by the party intended to be served. When service is by mail, service is effective upon mailing.

(d) *Service upon representative.* Whenever a party is represented by an attorney or other authorized representative who has entered an appearance on behalf of such party pursuant to § 2700.3(c), service thereafter shall be made upon the attorney or other authorized representative.